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|  | ARIZONA DEPARTMENT OF RACING Policy and Procedure | |
| | Subject APPEARANCE BOND ADMINISTRATION POLICY AND PROCEDURE | Policy Number 04-005 |
| | | Effective Date 03/01/2004 (Revised July 1, 2004) |
| Supersedes: All Department of Racing's prior Appearance Bond and/or Appeal Bond Policies and Procedures. | | |

PURPOSE

This policy sets forth guidelines for the administration of an appearance bond procedure for individuals when appearing for hearings before the Director, the Commission and/or Arizona Office of Administrative Hearings (OAH) for the purpose of appealing a decision made by the Stewards, the Director, the Commission, and/or their employees and/or agents; when exercising their authority. It is intended to ensure conformance with the requirements of the State of Arizona's Racing Laws, Rules, and Regulations.

SUBSTANTIVE POLICY STATEMENT

This substantive policy statement is advisory only. A substantive policy statement does not include internal procedural documents that only affect internal procedures of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules made in accordance with the Arizona administrative procedure act. If you believe that this substantive policy statement does impose additional requirements or penalties you may petition the agency under Arizona Revised Statutes 41-1033 for a review of the statement.

DEFINITIONS

1. **Appearance Bond** means a two hundred dollar (\$200.00) deposit made to the Department to guarantee an individual's appearance at a hearing before the Director, the Commission, and/or OAH, to be reimbursed after their appearance is confirmed and to be forfeited upon their non-appearance.
2. **Director** means the Director of the Arizona Department of Racing.
3. **Indigent** means a person who, upon the Director's approval, does not have the economic means to post an appearance bond, as defined herein, and submits a notarized affidavit, in a Department prescribed form, declaring his or her economic inability to post an appearance bond.

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4. **Individual(s)** means the individual(s), entity(s), person(s), and/or their employees and/or agents subject to the authority of the Department, the Director, the Stewards, the Commission, and/or OAH as it relates to Arizona Racing Laws, Rules, and Regulations.
5. **Department** means the Arizona Department of Racing.
6. **Stewards** means the Arizona racing stewards exercising their authority.
7. **Commission** means the Arizona Racing Commission.
8. **OAH** means the Arizona Office of Administrative Hearings.
9. **Appeal Hearing** means a hearing before the Director, the Commission, and/or OAH for the purpose of appealing a decision made by the Stewards, the Director, and/or the Commission, and/or their employees and/or agents when exercising their authority under Arizona Racing Laws, Rules, and Regulations.

POLICY AND PROCEDURE

1. The Stewards, Department employees, Director, and Commission shall ensure that all rulings made, as they relate to this policy, shall include a confirmation of the individual's appearance or non-appearance before them and in this manner authorize the release of the appearance bond, as described herein.
2. An individual licensed or otherwise, wishing to appear before the Director, the Commission, and/or OAH to appeal a decision made by the Stewards, the Director, and/or the Commission shall deposit cash and/or certified funds (money order or cashier's check) totaling two hundred dollars (\$200.00) with the Department at any of the Department's licensing locations or the Department's main office, located at 1110 West Washington Street, Suite 260, in Phoenix, Arizona, except if the individual is indigent.
3. The individual who deposits an appearance bond with the Department shall be present at the appeal hearing at the required time and date in order to receive an appearance bond reimbursement. Failure of the individual to appear at the appeal hearing, as required, shall constitute forfeiture of the appearance bond to the State.
4. The Department, upon confirmation that an appearance bond has been posted and all other requirements fulfilled, shall process the appearance bond reimbursement totaling two hundred dollars (\$200.00) payable through an Arizona State issued warrant to the individual who posted the appearance bond.

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5. The Department, upon confirmation that an appearance bond has been forfeited, shall process a transfer of the appearance bond to the State's General Fund.
6. Department employees shall follow the following procedures when processing appearance bonds:

A. Individual's Deposit of an Appearance Bond with the Department.

- 1- The Department's official/employee who receives the appearance bond deposit shall process the appearance bond funds as such and shall register the transaction in the Department's database and records, as required. This official/employee shall provide a receipt to the individual posting the appearance bond, as established.
- 2- If the Department official/employee is accepting a notarized affidavit from an indigent individual, the Department official/employee shall provide the affidavit or a copy thereof to the Department's Enforcement and Compliance Division to update all Department licensing records and databases, as required.
- 3- The Department's official/employee shall forward the appearance bond and back-up documents to the Department's Accounting Section, as established, to process a deposit into a holding account with the Arizona State Treasurer's Office, as required. The Department's official/employee shall provide this information and back-up materials to the Department's Enforcement and Compliance Division to update the Department's licensing records and databases, as required.
- 4- The Department's Accounting Section shall maintain a log that records all appearance bonds and shall maintain all back-up records in a temporary file until final confirmation of an individual's appearance or non-appearance at the appeal hearing. The appearance bond records shall become part of all other Department accounting records, after final confirmation, as described herein.
- 5- The Department's Accounting Section shall notify the Department's Licensing Section when the deposit has been made and the appearance bond log has been completed and updated.
- 6- The Department's Licensing Section shall verify that all Department records and databases are updated to record that the appearance bond has been posted.

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**B. Individual's Appearance at an Appeal Hearing.**

- 1- Upon confirmation by the Director, the Commission, and/or OAH that the individuals who posted an appearance bond complied with all requirements, as established herein, to receive an appearance bond reimbursement, the Department's Accounting Section shall process and issue, within thirty (30) days of confirmation receipt, an Arizona State warrant for two hundred dollars (\$200.00) on behalf of the individual who posted the appearance bond, as established.
- 2- The Department's Accounting Section shall update the appearance bond log and shall transfer the records to the files where all other accounting records for that fiscal year are kept, as required.
- 3- The Department's Accounting Section shall notify the Department's Licensing Section when the reimbursement has been made and the appearance bond log has been completed and updated.
- 4- The Department's Licensing Section shall verify that all Department records and databases have been updated to record that the appearance bond has been reimbursed.

C. Individual's Forfeiture of the Appearance Bond.

- 1- Upon confirmation by the Director, the Commission, and/or OAH that the individual who posted an appearance bond forfeited their appearance bond, as established herein, the Department's Accounting Section shall process, within thirty (30) days of confirmation receipt, a transfer of two hundred dollars (\$200.00) of funds from the holding account to the State's General Fund, as established.
- 2- The Department's Accounting Section shall update the appearance bond log and shall transfer the records to the files where all other accounting records for that fiscal year are kept, as required.
- 3- The Department's Accounting Section shall notify the Department's Licensing Section when the appearance bond forfeiture has been transferred and the appearance bond log has been completed and updated.
- 4- The Department's Licensing Section shall verify that all Department records and databases have been updated to record the appearance bond forfeiture.

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7. The Department's Accounting Section shall review all outstanding appeal bond records, as they have been processed prior to the effective date of this policy, to confirm that all individuals who posted an appeal bond and who are eligible for reimbursement have and will receive such reimbursement, as required. All remaining funds in the holding account for the appeal bond that are not subject to reimbursement shall be considered forfeited and transferred to the State's General Fund.
8. Any Department employee, agent, and/or official failing to comply with this policy shall be subject to disciplinary action up to and including suspension and/or termination from State employment.



Geoffrey E. Gonsler, Director7/15/04

Date